

E-Rate Advantage
E Rate Consulting

Phone: 908 894 5213

Fax: 888 527 5449

Email: ben@erateadvantage.com

June 7, 2013

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Subject: Appeal of USAC Funding Decision – Docket 02-6

Request for Review

Applicant: Harlem Village Academies Business Office
BEN 16043673
Application 844887
FRN 2294432
SPIN: 143031652 – MindSHIFT Technologies

Summary

Harlem Village Academies Business Office (HVA) filed their basic maintenance application with a discount rate of 88%. On their block 4 worksheet they included all of their locations. However, USAC set program demand for Priority II funding at 90%. Shortly after USAC set program demand at 90%, HVA submitted a RAL letter to remove an entity from their Block 4. By removing this entity, this would allow HVA to reach the 90% threshold and receive funding for their, Priority II, basic maintenance application.

During PIA review HVA consulted with their PIA reviewer about the best way to remove this entity. Our reviewer indicated that we would be allowed to remove the entity, as other applicants had been allowed to in the past, via the RAL method. After consulting with her manager, she suggested the best way to remove this entity would be to submit a RAL. Therefore, on 8/13/12 we submitted a RAL letter, please find enclosed.

However, on 2/5/2013, HVA received a denial letter for application 844887 because program demand would not allow for funding to the 88% threshold, indicating that our removal of our entity was not allowed, please find enclosed.

USAC Appeal Decision

USAC denied HVA's appeal for the following reasons:

- The change requested with the RAL was not implemented because the requested corrections were not considered a correctable ministerial and clerical error.
- FCC rules require that where demand for funding exceed available support, first priority be given to requests for telecommunications services and internet access. FCC rules further require that requests for Internal Connections be given second priority and be funded only if funds remain after support has been reserved for Telecommunications and Internet Access through all discount levels in a funding year. Consequently, where demand for discounts for Internal Connections exceeds available support, FCC rules require that funding be awarded first to applicants eligible for a 90 percent discount level and then at each descending single discount percentage until funds are depleted.
- Your appeal requests additional funds that were not included in the FCC form 471 that you are appealing.

Conclusion

HVA would argue the following:

- We believe in previous years, USAC has allowed applicants opportunities to adjust block 4 worksheets for many reasons. Schools close, students move buildings, buildings close, service is no longer going to specific buildings. We argue that this is exactly what HVA is trying to do. HVA would like to remove an entity from their block 4 worksheet. They would also like to reduce their FRN amount to reflect the removal of the entity. HVA shows no evidence of waste, fraud or abuse.
- We believe by submitting our RAL correction we are becoming compliant and reaching that 90% discount level where we would be afforded the opportunity to receive Basic maintenance of Internal Connections.
- There is no funding increase. We argue that this adjustment would not result in any increase to the application or FRN. On contrary, HVA would be reducing the amount of their FRN, another allowable, pre-FCDL, adjustment. By removing an entity from the application HVA would also be reducing the amount of that FRN.

HVA is a community of schools serving over 1000 low-income students. HVA counts on E-Rate support to help off set many of its maintenance costs. Denial of these funds would inflict undue hardship on the schools. HVA, has not shown any evidence of waste, fraud or abuse, misuse of funds or failure to adhere to

core program requirements. Therefore we ask that HVA's FRN be sent back to USAC for further review.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ben Sniecinski', with a long horizontal flourish extending to the right.

Ben Sniecinski
E-Rate Advantage
106 Lilac Drive
Annandale, NJ 08801
908 894 5213
888 527 5449
E mail: ben@erateadvantage.com

Subject: RAL Letter for BEN #16043673

Date: Monday, August 13, 2012 12:14:19 PM Eastern Daylight Time

From: Ben Sniecinski

To: 19735996526@myfax.com

To Whom it May Concern,

Attached please find a RAL letter. We would like to remove Entity 16046456, Harlem Village Academy High School, from application 844887. This should increase this application from 88% to 90%.

If you have any additional questions please let me know.

Thanks

Ben

E-rate demand outpaces available funding nearly 2:1. You can make a difference

--

Ben Sniecinski

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Form 471 844887 RAL Funding Requests Report

THIS REPORT DOES NOT CONTAIN ANY DECISIONS CONCERNING YOUR REQUESTS FOR DISCOUNTS.
USE THIS REPORT TO LIST OR INDICATE CORRECTIONS YOU WISH TO MAKE TO YOUR FORM 471.

Follow the guidance posted on the Form 471 RAL page on our website to make allowable corrections. All corrections - including corrections to new fields - are subject to review for Program compliance and approval.

Corrections Submitted by:

Signature: [Signature] Date: 8/13/12

Printed Name: Ben Sniecinski

Title: Consultant

Email, Fax Number or Phone Number: Ben@erateadvantage.com
888-527-5449, 908-894-5213

Item	Data Entered on FCC Form 471	Make Corrections Here
1a. Name of Billed Entity	HARLEM VILLAGE ACADEMIES BUSINESS OFFICE	
3. Billed Entity Number	16043673	Corrections not allowed
6. Contact Person's Name	Ben Sniecinski	Corrections not allowed
6. Preferred mode of contact	Email	
6c. Contact Phone	908-894-5213	
6d. Contact Fax	888-527-5449	
6e. Email	ben@erateadvantage.com	
6f. Holiday/vacation/summer contact information - if provided		

6g. Consultant Name BENJAMIN SNIECINSKI
Consultant Number 16060670
Consultant Employer E-Rate Advantage

The Billed Entity name, address, phone and fax numbers cannot be changed via the RAL correction process.

Entity Number: 16043673	Applicant's Form Identifier:
Contact Person: Ben Snieciński	Contact Phone Number:

Block 4: Discount Calculation Worksheet

Worksheet - 1423659

Page 1 of 1

The Block 4 worksheet is used to calculate your discount for services. You will complete one or more worksheets depending on the type of application you are filing. If you file more than one worksheet, please number the completed worksheets to assure that they are all processed correctly. Please refer to the instructions for information specific to the Type of Application you indicated in Block 1, Item 5.

☐ Check here if this worksheet contains all eligible entities in the school district or library system.

9a List entities and calculate discount(s):

(For Administrator's Use)

School District or Library System Name:**School District or Library System Entity Number:**

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Name of Eligible Entity	Entity Number AND NCES Code (for Schools) or FSCS Code (for Libraries)	Urban or Rural U or R	Total Number of Students	Number of Students Eligible for NSLP	Percent of Students Eligible for NSLP (Col. 5 / Col. 4)	Disc from Disc Matrix	New Construction	Admin Entity or NIF	Alt Disc Mech	Weighted Product for Calculating Shared Discount (Col. 4 x Col. 7)	Insert appropriate codes(s): P= pre-K, H = Head Start, A = Adult Education, J = Juvenile Justice, E = ESA, D = Dormitory	Entity Number of School District in which Library Outlet/Branch is Located	Discount of Member Entity	Shared Discount
ALL ENTITIES			SCHOOLS AND LIBRARIES							Schools with shared services	Schools	Library Outlet/Branch	Consortia	
HARLEM VILLAGE ACADEMY HIGH SCHOOL	16046456	U	190	140	70.707%	80	N	N	N	15840				
HARLEM VILLAGE ACADEMY MIDDLE SCHOOL	16020481	U	293	222	75.768%	90	N	N	N	26370				
HARLEM VILLAGE ACADEMY LEADERSHIP	16028534	U	290	237	81.724%	90	N	N	N	26100				
HARLEM VILLAGE ACADEMY ELEMENTARY CHARTER SCHOOL	16068618	U	125	100	80.000%	90	N	N	N	11250				
HARLEM VILLAGE ACADEMY LEADERSHIP ELEMENTARY CHARTER SCHOOL	16068617	U	125	100	80.000%	90	N	N	N	11250				
HARLEM VILLAGE ACADEMIES BUSINESS OFFICE	16043673	U	0	0	0.000%	88	N	N	N	0				

9b Shared Services

SCHOOL DISTRICTS: (Including groups of schools within school districts.) Calculate the totals of Columns 4 and 11. Divide the total of Column 11 by the total of Column 4. Enter the result in Column 15.	1031									90810				88%
LIBRARY SYSTEMS: Calculate the total of Column 7. Divide this total by the number of outlets/branches. Enter the result in Column 15.														
CONSORTIA: Calculate the total of Column 14. Divide this total by the number of member entities. Enter the result in Column 15.														

Entity Number: 16043673	Applicant's Form Identifier:
Contact Person: Ben Snieciński	Contact Phone Number:

Block 5: Discount Funding Request(s)

Instructions: Use one Block 5 page for EACH service (Funding Request Number) for which you are requesting discounts. Make as many copies of this page as needed, and number the completed pages to assure that they are all processed correctly.

Block 5, page 1 of 1

FRN 2294432

(to be assigned by administrator)

10 ☐ If this is a duplicate Funding Request (e.g., of an FRN that is not yet approved, under appeal, etc.), check this box and enter the original FRN in the space provided:

11 **Category of Service** (only ONE category should be checked)23 **Calculations**

Subject: FW: RAL Letter for BEN #16043673

Date: Monday, August 13, 2012 12:14:56 PM Eastern Daylight Time

From: Ben Sniecinski

To: Dasilva, Diana

Diana,

Attached is what I sent to the RAL folks. Just in case you need it as well.

Thanks for all your help.

Ben

E-rate demand outpaces available funding nearly 2:1. [You can make a difference](#)

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Ben Sniecinski

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Phone: 908-894-5213

Fax: 888-527-5449

ben@erateadvantage.com

www.erateadvantage.com

From: Benjamin Sniecinski <ben@erateadvantage.com>

Date: Monday, August 13, 2012 12:14 PM

To: "19735996526@myfax.com" <19735996526@myfax.com>

Subject: RAL Letter for BEN #16043673

To Whom it May Concern,

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Ben Sniecinski

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FUNDING COMMITMENT DECISION LETTER
(Funding Year 2012: 07/01/2012 - 06/30/2013)

February 5, 2013

Ben Sniecinski
HARLEM VILLAGE ACADEMIES BUSINESS OFFICE
106 Lilac Drive
Annandale, NJ 08801

Re: Form 471 Application Number: 844887
Billed Entity Number (BEN): 16043673
Billed Entity FCC RN: 0017879503
Applicant's Form Identifier: None entered

Thank you for your Funding Year 2012 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$235,276.80 is "Denied."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486, Receipt of Service Confirmation Form. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

NEXT STEPS

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity applicant) - as products and services are being delivered and billed

TO APPEAL THIS DECISION:

You have the option of filing an appeal with the SLD or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - Appellant name,
 - Applicant name and service provider name, if different from appellant,
 - Applicant BEN and Service Provider Identification Number (SPIN),
 - Form 471 Application Number 844887 as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2012," AND
 - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT

Billed Entity Name: HARLEM VILLAGE ACADEMIES BUSINESS OFFICE

BEN: 16043673

Funding Year: 2012

Comment on RAL corrections: The RAL request for FCC Form 471 844887, to remove HARLEM VILLAGE ACADEMY HIGH SCHOOL entity# 16046456, was canceled in consultation with the applicant.

Form 471 Application Number: 844887

Funding Request Number: 2294432

Funding Status: Not Funded

Category of Service: Basic Maintenance of Internal Connections

Form 470 Application Number: 780930000948558

SPIN: 143031652

Service Provider Name: mindSHIFT Technologies

Contract Number: HVA

Billing Account Number: N/A

Multiple Billing Account Numbers: N

Service Start Date: 07/01/2012

Service End Date: N/A

Contract Award Date: 02/07/2012

Contract Expiration Date: 06/30/2013

Shared Worksheet Number: 1423659

Number of Months Recurring Service Provided in Funding Year: 12

Annual Pre-discount Amount for Eligible Recurring Charges: \$267,360.00

Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00

Pre-discount Amount: \$267,360.00

Discount Percentage Approved by the USAC: 88%

Funding Commitment Decision: \$0.00 - Srvc/Discnt will NOT be funded

Funding Commitment Decision Explanation: Given Program demand, the funding cap will not provide for Internal Connections and/or Basic Maintenance of Internal Connections at your approved discount level to be funded. Please see <http://www.universalservice.org/sl> for further details.

FCDL Date: 02/05/2013

Wave Number: 029

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2013

Consultant Name: BENJAMIN SNIECINSKI

Consultant Number (CRN): 16060670

Consultant Employer: E-Rate Advantage